

IN THE CIRCUIT COURT OF THE 6th
JUDICIAL CIRCUIT IN AND FOR
PASCO COUNTY, FLORIDA

GENERAL CIVIL JURISDICTION

I.M. and D.G. as adoptive parents of C.M.
and D.M., and individually, and E.G.
individually,

CASE NO. 51-2012-CA-3599 WS
DIVISION: H

Plaintiffs,

v.

FCP, INC., d/b/a FAMILY CONTINUITY
PROGRAMS, INC., YOUTH and FAMILY
ALTERNATIVES, INC., SARASOTA
FAMILY YOUNG MEN'S CHRISTIAN
ASSOCIATION, INC., d/b/a SAFE
CHILDREN COALITION, FLORIDA
DEPARTMENT OF CHILDREN and
FAMILIES, GIFT OF LIFE, INC., YOUTH
AND FAMILY SOLUTIONS, LLC, and
CHRIS NOCCO, in his official capacity as
Sheriff of Pasco County,

Defendants.

PLAINTIFFS' FIRST AMENDED COMPLAINT

COME NOW the Plaintiffs, I.M. and D.G. as adoptive parents of C.M. and D.M, and individually, and E.G. individually, by and through undersigned counsel, and hereby sue the Defendants, FCP, INC. D/B/A FAMILY CONTINUITY PROGRAMS, INC. ("FCP"), YOUTH AND FAMILY ALTERNATIVES, INC. ("YFA"), SARASOTA YOUNG MEN'S CHRISTIAN ASSOCIATION, INC. D/B/A SAFE CHILDREN COALITION ("YMCA"), THE HARBOR BEHAVIORAL HEALTH CARE INSTITUTE, INC. N/K/A BAYCARE BEHAVIORAL HEALTH, INC. (the "HARBOR"), FLORIDA DEPARTMENT OF CHILDREN AND

FAMILIES (“DCF”), GIFT OF LIFE, INC. (“GOL”), and CHRIS NOCCO, IN HIS OFFICIAL CAPACITY AS SHERIFF OF PASCO COUNTY (“PCSO”), and state as follows:

JURISDICTION AND VENUE

1. This action involves damages in excess of Fifteen Thousand Dollars (\$15,000.00) exclusive of attorney’s fees, interest, or costs, and which arise out of actions or omissions that occurred in Pasco County, Florida.

PARTIES

2. At all times relevant hereto, Plaintiff, E.G. (hereinafter “E.G.”), was a minor child, whose date of birth is December 19, 1991.

3. At all times relevant hereto, Plaintiff, C.M. (hereinafter “C.M.”), was a minor child, whose date of birth is July 3, 1994.

4. At all times relevant hereto, Plaintiff, D.M. (hereinafter “D.M.”), was a minor child, whose date of birth is July 12, 1994.

5. C.M. and E.G. are biological siblings.

6. D.M. is C.M. and E.G.’s adoptive sibling.

7. D.M. sustained years of abuse and neglect as a result of the negligence of the Defendants while he was receiving foster care, preventative, protective, and adoptive services from 1996 through 2008.

8. C.M. and E.G. sustained years of abuse and neglect as a result of negligence of the Defendants while they were receiving foster care, preventative, protective, and adoptive services from 2000 through 2008.

9. I.M. and D.G. are residents of Pasco County, Florida, who are the adoptive parents of D.M., C.M, and E.G, and as of October 2012, I.M. became the guardian of person and property for C.M., and I.M. and D.G. are otherwise *sui juris*.

10. Due to D.M., C.M., and E.G.'s status as minors at all times relevant hereto and the serious nature of the abuse they suffered, which includes physical, sexual, and emotional abuse, D.M., C.M., and E.G. file this action using pseudonyms. For like reasons, the names of I.M. and D.G. are being withheld because disclosure in the public record of their names would identify D.M., C.M., and E.G and the horrific abuse they endured.

11. Defendant, FLORIDA DEPARTMENT OF CHILDREN AND FAMILY SERVICES (hereinafter "DCF") is the state agency charged with operating the State of Florida's foster care system, providing substitute care services to children placed in their care, and monitoring the performance of all entities that provide community based care, pursuant to contracts with DCF and § 409.1671, Florida Statutes.

12. On May 22, 2012 Defendant, DCF was provided with a Notice of Claim, pursuant § 768.28, Florida Statutes. The State of Florida failed to make final disposition of said claim within six (6) months, and said claim was therefore denied.

13. Defendant, FCP, INC. d/b/a FAMILY CONTINUITY PROGRAMS, INC. (hereinafter "FCP") was a not-for-profit corporation, organized and existing under the laws of the State of Florida, and performing child welfare services in Pasco County, Florida.

14. From June 2000 until June 2004, FCP was the lead community based care provider in Pasco County, Florida, pursuant to § 409.1671, Florida Statutes, and was in the business of providing foster care and related services to dependent children in the legal custody and protective supervision of the DCF pursuant to the terms of a contract between FCP and DCF.

15. On or about June 2004, FCP lost its contract with DCF and ceased being the lead community based care provider in Pasco County, Florida due to unsatisfactory performance.

16. Defendant, SARASOTA FAMILY YOUNG MEN'S CHRISTIAN ASSOCIATION, INC. d/b/a SAFE CHILDREN COALITION (hereinafter "YMCA"), is a not-for-profit corporation, organized and existing under the laws of the State of Florida, and performed child welfare services in Pasco County, Florida.

17. From July 2004 until November 2007, YMCA was the lead community based care provider in Pasco County, Florida, pursuant to § 409.1671, Florida Statutes, and was in the business of providing foster care and related services to dependent children in the legal custody and protective supervision of the DCF pursuant to the terms of a contract between YMCA and the DCF.

18. In 2007, YMCA lost its contract with DCF and ceased being the lead community based care provider in Pasco County, Florida due to unsatisfactory performance.

19. Defendant, THE HARBOR BEHAVIORAL HEALTH CARE INSTITUTE, INC. N/K/A BAYCARE BEHAVIORAL HEALTH, INC. (hereinafter the "HARBOR"), is a not-for-profit corporation organized and existing under the laws of the State of Florida and performed child welfare services in Pasco County, Florida.

20. The HARBOR was in the business of providing foster care and related services, as well as counseling and therapy services, to dependent children in the legal custody and protective supervision of DCF pursuant to the terms of a contract between the HARBOR and YMCA and pursuant to § 407.1671, Florida Statutes.

21. Defendant, CHRIS NOCCO, in his official capacity as Sheriff of Pasco County, represents the Pasco County Sheriff's Office (hereinafter "PCSO"), which is a subdivision of the State of Florida.

22. Defendant, CHRIS NOCCO is being sued only in his official capacity as the current Sheriff of PCSO, even though the events herein occurred prior to his assumption of the position of Sheriff of PCSO.

23. On or about May 2000, PCSO contracted with DCF to perform all child protective investigations, performed pursuant to Chapter 39 of the Florida Statutes, which included assessing the risk to the victim child(ren) throughout the investigation, and to comply with all statutory and administrative rules and procedures regarding such child protective investigations.

24. PCSO's Child Protective Investigators ("CPI") had the duty and authority to remove any child from his/her home at any time during the investigation if there was evidence of risk to the subject child.

25. On May 22, 2012 Defendant, PCSO was provided with a Notice of Claim, pursuant section 768.28, Florida Statutes. PCSO failed to make final disposition of said claim within six (6) months, and said claim was therefore denied.

26. Defendant, GIFT OF LIFE, INC. (hereinafter "GOL") was a not-for-profit corporation organized and existing under the laws of the state of Florida and performed child welfare services in Pasco County, Florida.

27. Defendant, GOL was in the business of providing foster care and related services as well as counseling and therapy services to dependent children in the legal custody and protective supervision of DCF.

28. Defendant, YOUTH AND FAMILY ALTERNATIVES, INC. (hereinafter “YFA”) is a not-for-profit corporation organized and existing under the laws of the state of Florida and performed child welfare services in Pasco County, Florida.

29. Defendant, YFA was in the business of providing foster care and related services as well as counseling and therapy services to dependent children in the legal custody and protective supervision of DCF.

GENERAL ALLEGATIONS

30. On or about January 1996, Defendant, DCF removed D.M. from his biological parents due to physical and sexual abuse.

31. On or about November 16, 1999, Defendant, DCF placed D.M. in a foster home wherein it was known or should have been known to DCF that the foster parents were physically and emotionally abusive toward children (hereinafter referred to as “HOME” and “PARENTS”).

32. Defendant, DCF knew or should have known the PARENTS were physically and emotionally abusive to the children living in the HOME and allowed Plaintiff, D.M. to remain in the HOME even though the HOME was a dangerous environment for children.

33. On or about June 2000, when Defendant, FCP became the lead community based care provider in Pasco County, Florida, FCP continued to license the HOME, even though FCP knew or should have known the PARENTS were physically and emotionally abusive to the children living in the HOME, including Plaintiff, D.M.

34. On or about June 2000, after privatization of child welfare services in the State of Florida, Defendant, DCF retained responsibility for monitoring the performance of lead community based care providers, such as FCP and YMCA.

35. On or about July 14, 2000, FCP allowed the Plaintiff, D.M. to be adopted by the PARENTS, who were known or should have been known to FCP to be physically and emotionally abusive to children, including Plaintiff, D.M.

36. On or about December 22, 2000, C.M. and E.G. were removed from their biological parents by Defendant, PCSO due to physical and sexual abuse.

37. Due to the abuse they suffered, C.M. and E.G. began therapy and counseling with Defendants, YFA, GOL, and/or the HARBOR.

38. On or about September 19, 2002, a staffing was held in regard to Plaintiffs, C.M. and E.G. wherein Defendant, FCP determined that Plaintiffs, C.M. and E.G. each needed a Comprehensive Behavioral Health Assessment.

39. On or about October 9, 2002, the HOME lost its foster care license due to numerous abuse reports involving the PARENTS.

40. Despite the fact that the HOME lost its foster care license due to numerous abuse reports, on or about October 2002, FCP placed Plaintiff, E.G. in the HOME, when FCP knew or should have known that the PARENTS were physically and emotionally abusive to the children living in the home and that the HOME was a dangerous environment.

41. Despite the fact that the HOME lost its foster care license due to numerous abuse reports, on or about December 2002, FCP placed Plaintiff, C.M. in the HOME, when FCP knew or should have known that the PARENTS were physically and emotionally abusive to the children living in the home and that the HOME was a dangerous environment.

42. On or about November 26, 2003, FCP allowed the Plaintiffs, C.M. and E.G. to be adopted by the PARENTS, who were known or should have been known to FCP to be physically and emotionally abusive to children.

43. On or about March 1, 2004, after D.M., C.M., and E.G. were adopted by the PARENTS, their adoptive brother reported to a PCSO Child Protective Investigator that the HOME was a dangerous environment because: (1) illegal drugs were possessed, used, and distributed in the HOME, in the presence of children, (2) the PARENTS were aware of and participated in such illegal drug distribution, (3) the PARENTS encouraged and directed the children living in the HOME to participate in crimes on the PARENTS' behalf, (4) the PARENTS gave the underage children living in the HOME alcohol to drink, (5) the children living in the HOME were previously coached and directed by the PARENTS in regard to what the children were allowed to say to investigators during prior investigations, and (6) the reporting child was in fear of the PARENTS and afraid to return to the HOME due to what he reported.

44. Subsequently, the HOME was investigated by PCSO and illegal drugs were found in the home.

45. On or about April 17, 2004, the children living in the HOME were placed under the protective supervision of Defendants, FCP and DCF.

46. Defendants, FCP and DCF were aware that the HOME was a dangerous environment, yet they allowed children, including the Plaintiffs, to remain in the HOME under protective supervision, thereby allowing the children to continue to be further exposed to illegal drugs and physical and emotional abuse.

47. On or about June 2004, Defendant, FCP lost its contract with Defendant, DCF and ceased to be the lead community based care provider in Pasco County, Florida.

48. On or about July 1, 2004, Defendant, YMCA contracted with Defendant DCF to be the lead community based care provider in Pasco County, Florida.

49. Upon becoming the lead community based care provider in Pasco County, or shortly thereafter, Defendant YMCA knew or should have known of the systemic and specifically identified deficiencies that caused FCP to lose its contract with DCF, and YMCA had a duty to correct and address such deficiencies and dangers system-wide and in the HOME.

50. Upon becoming the lead community based care provider in Pasco County, Defendant, YMCA and its subcontractor Defendant, the HARBOR became responsible for providing protective supervision services to the Plaintiffs, D.M., C.M., and E.G and for ensuring their safety.

51. Despite the numerous prior reports of physical abuse made against the PARENTS and despite the fact that illegal drugs were found in the HOME, Defendants, DCF, FCP, YMCA, the HARBOR, and PCSO allowed the Plaintiffs to remain in the HOME, which was a known dangerous placement, and failed to remove the Plaintiffs D.M., C.M., and E.G. from the HOME.

52. Subsequently, over the next two (2) years, several more abuse reports were made alleging a similar pattern of abuse in the HOME, specifically: (1) that the PARENTS were aware of and participated in illegal drug sales, (2) that the PARENTS were physically abusing children living in the HOME, including the Plaintiffs, and (3) that the PARENTS gave underage children alcohol to drink.

53. On or about January 2006, C.M. was molested by a known adult male sex offender, who had been living in the HOME since September 2003, during the time she was under protective supervision by Defendants, FCP, YMCA, and/or the HARBOR.

54. Defendants, FCP, YMCA, and/or the HARBOR knew or should have known that an adult male sex offender was living in the HOME.

55. During the time C.M. and E.G. lived in the HOME, they received counseling and therapy services from Defendants, YFA, GOL, and/or the Harbor.

56. Defendants, YFA, GOL, and/or the HARBOR were responsible for reviewing the Plaintiffs' case history and identifying signs and symptoms indicating the Plaintiffs were being abused by the PARENTS, and any reasonable suspicion that the Plaintiffs were being abused or neglected should have been reported to the Florida Abuse Hotline.

57. On or about January 11, 2006, a raid was conducted on the HOME by PCSO, and the adults living in the HOME, including the PARENTS, were arrested on charges of drug possession, drug distribution, and violation of probation, and Plaintiffs, D.M., C.M., and E.G. were removed from the HOME.

58. During the time Plaintiffs, C.M., E.G., and D.M. were living in the HOME, Defendants, DCF, PCSO, FCP, YMCA, and the HARBOR were aware or should have been aware that the HOME was a dangerous placement because:

- a. There had been a clear pattern of allegations of drug use and distribution involving the HOME;
- b. There had been a clear pattern of allegations of physical abuse and corporal punishment involving the HOME; and
- c. There had been a clear pattern of allegations that children living in the HOME were too frightened to disclose the abuse they suffered because they were threatened and coached by the PARENTS regarding what they were allowed to say to investigators of abuse reports concerning the PARENTS.

59. Plaintiffs, C.M. and E.G. did not receive a Comprehensive Behavioral Health Assessment until on or about February 16, 2006, after they were removed from the HOME, even

though it had been determined that C.M. and E.G. each needed a Comprehensive Behavioral Health assessment on or about September 19, 2002.

60. On or about April 16, 2006, the dependency court ordered that Plaintiffs, D.M., C.M., and E.G. be sheltered.

61. On or about August 2008, Plaintiffs, D.M., C.M., and E.G. were adopted by I.M. and D.G.

62. Until they were adopted in August 2008, Plaintiffs, D.M., C.M., and E.G. were minors, who had no person available, without an adverse interest, and in a position to protect their rights.

63. As all of the above Defendants in Pasco County operate, conduct business, and refer to themselves as the Safe Children Coalition, it was not until on or after February 2012, when Plaintiffs, D.M., C.M., and E.G. received requested documents relevant to their time in foster care and adoption by the PARENTS that they were aware or should have been aware of their separate and individual claims against Defendants, FCP, YMCA, the HARBOR, YFA, and GOL.

COUNT I
NEGLIGENCE OF DEFENDANT, DCF

64. Plaintiffs, D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

65. Pursuant to common law and statutory law, before the State of Florida privatized child welfare services, DCF owed Plaintiff, D.M. the following duties:

- a. To keep foster children safe;

- b. To provide case management services, to ensure the safety of children in their care;
- c. To provide protective supervision services, to ensure the safety of children in their care;
- d. To not place children in their care in dangerous or abusive foster homes and adoptive placements;
- e. To not initially license or renew the foster care license of known abusive foster parents, to ensure the safety of children in their care;
- f. To perform child protective investigations and assess risk to children, such as D.M., during such investigations, to ensure the safety of children who were subjects of such investigations;
- g. To remove the children from their foster homes when DCF knew or should have known that such children were at risk of further abuse and/or neglect and/or knew or should have known that children were being physically and emotionally abused by their foster parents, to ensure the safety of children in their care.

66. Pursuant to common law, statutory law, and contracts between DCF and community based care providers, after child welfare services became privatized in the State of Florida, DCF owed Plaintiffs, D.M., C.M., and E.G. a duty to keep all children in foster care and under protective supervision safe and to perform quality assurance reviews to monitor the performance of lead community based care providers, such as FCP and YMCA, and to implement corrective action plans to correct poor performance of such lead community based care providers in providing foster care and related services, including case management services,

adoption services, and/or protective supervision services, to ensure the safety of children in their care.

67. DCF, through its agents and/or employees, breached the aforesaid duties in paragraphs 65 and 66, thereby completely failing to ensure the ongoing safety of the Plaintiffs.

68. As a direct and proximate result of the aforementioned breaches by Defendant, DCF, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer, severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such losses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G. demand judgment against Defendant, FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT II
NEGLIGENCE OF DEFENDANT, PCSO

69. Plaintiffs D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

70. Pursuant to common law, statutory law, and contracts between PCSO and DCF, Defendant, PCSO owed Plaintiffs, D.M., C.M., and E.G. the following duties:

- a. To keep children who were the subject of their investigations safe;
- b. To perform child protective investigations and assess risk to children, such as the Plaintiffs, during such investigations and to keep such children safe from harm;
- c. To remove the Plaintiffs from the HOME when PCSO knew or should have known the following:
 - i. That the Plaintiffs were at risk of abuse and/or neglect;
 - ii. That the Plaintiffs were being physically and emotionally abused by the PARENTS;
 - iii. That drug dealing transactions and crimes were occurring in the HOME;
 - iv. That the PARENTS participated and encouraged the Plaintiffs to participate in drug dealing transactions and crimes occurring in the HOME;
 - v. That the children living in the HOME were being threatened by the PARENTS and told not to disclose the abuse that was occurring in the HOME.

71. PCSO, through its agents and/or employees, breached the aforesaid duties in paragraph 70, thereby completely failing to ensure the ongoing safety of the Plaintiffs.

72. As a direct and proximate result of the aforementioned breaches by Defendant, PCSO, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and

emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer, severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such losses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G., demand judgment against Defendant, CHRIS NOCCO, IN HIS OFFICIAL CAPACITY AS SHERIFF OF PASCO COUNTY for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT III
NEGLIGENCE OF DEFENDANT, FCP

73. Plaintiffs, D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

74. Pursuant to common law, statutory law, and FCP's contract with DCF, Defendant FCP owed Plaintiffs, D.M., C.M., and E.G. the following duties:

- a. To keep children in foster care and children under protective supervision safe;
- b. To provide case management services, to ensure the safety of children in their care;
- c. To provide protective supervision services, to ensure the safety of children in their care;

- d. To use reasonable care to keep the Plaintiffs safe while in FCP's care, and in providing oversight and supervision of the Plaintiffs to ensure that they were not abused and/or neglected;
- e. To use reasonable care in the screening and assessment of the PARENTS before initially licensing and renewing their foster care license, and in monitoring the foster care license of the HOME, to ensure the safety of children in their care;
- f. To use reasonable care assessing the risk of placing children in the HOME, to ensure the safety of children in their care;
- g. To perform home visits at least one (1) time per month to foster children living in the HOME and assess the risk of those children during such home visits to ensure the safety of children in their care;
- h. To perform Comprehensive Behavioral Health Assessments on foster children to evaluate, treat, and address the mental health needs of such children;
- i. To use reasonable care the screening and assessment of adoptive parents for the Plaintiffs, to ensure the safety of children in their care;
- j. To remove the Plaintiffs from the HOME when FCP knew or should have known the following:
 - i. That the Plaintiffs were at risk of abuse and/or neglect;
 - ii. That the Plaintiffs were being physically and emotionally abused by the PARENTS;
 - iii. That drug dealing transactions and crimes were occurring in the HOME;

- iv. That the PARENTS participated and encouraged the Plaintiffs to participate in drug dealing transactions and crimes occurring in the HOME;
- v. That the children living in the HOME were being threatened by the PARENTS and told not to disclose the abuse that was occurring in the HOME.
- k. To participate in quality assurance reviews performed by DCF and comply with any corrective action plans implemented by DCF based on FCP's performance in providing foster care and related services, to ensure the safety of children in their care ;
- l. To perform quality assurance reviews to monitor the performance of FCP subcontractors and implement corrective actions plans to correct poor performance of such subcontractors, to ensure the safety of children in their care.

75. Defendant, FCP, through its agents and/or employees, breached the aforesaid duties in paragraph 74, thereby completely failing to ensure the ongoing safety and continuity of the care of the Plaintiffs, D.M., C.M., and E.G.

76. As a direct and proximate result of the aforementioned breaches by Defendant, FCP, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer, severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of

hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such losses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G. demand judgment against Defendant, FCP, INC. D/B/A FAMILY CONTINUITY PROGRAMS, INC., for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT IV
NEGLIGENCE OF DEFENDANT, YMCA

77. Plaintiffs D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

78. Pursuant to common law, statutory law, and YMCA's contract with DCF, Defendant, YMCA owed Plaintiffs, D.M., C.M., and E.G. the following duties:

- a. To keep children under protective supervision safe;
- b. To provide case management services to ensure the safety of children in their care;
- c. To provide protective supervision services to ensure the safety of children in their care;
- d. To monitor the performance of any subcontractors providing case management and/or protective supervision services to the Plaintiffs, including but not limited to the HARBOR, pursuant to the contract between the subcontractor and YMCA, to ensure the safety of children in their care;

- e. To use reasonable care to keep the Plaintiffs safe while in YMCA's care and in providing oversight and supervision of the Plaintiffs to ensure that they were not abused and/or neglected;
- f. To use reasonable care assessing the risk of abuse to children living in the HOME to ensure the safety of such children;
- g. To perform home visits at least one (1) time per month to children living in the HOME, who were under protective supervision, and assess the risk of those children during such home visits to ensure the safety of such children;
- h. To perform Comprehensive Behavioral Health Assessments on foster children to evaluate, treat and address the mental health needs of such children;
- i. To remove the Plaintiffs from the HOME when YMCA knew or should have known the following:
 - i. That they were at risk of abuse and/or neglect;
 - ii. That the PARENTS were physically and emotionally abusing the Plaintiffs;
 - iii. That drug dealing transactions and crimes were occurring in the HOME;
 - iv. That the PARENTS participated and encouraged the Plaintiffs to participate in drug dealing transactions and crimes occurring in the HOME;
 - v. That the children living in the HOME were being threatened by the PARENTS and told not to disclose the abuse that was occurring in the HOME.

- j. To participate in quality assurance reviews performed by DCF and comply with any corrective action plans implemented by DCF based on YMCA's performance in providing foster care and related services, to ensure the safety of children in their care;
- k. To perform quality assurance reviews to monitor the performance of YMCA subcontractors, including but not limited to the HARBOR, and implement corrective actions plans to correct poor performance of such subcontractors, to ensure the safety of children in their care.

79. Defendant, YMCA, through its agents and/or employees, breached the aforesaid duties in paragraph 78, thereby completely failing to ensure the ongoing of the Plaintiffs, D.M., C.M., and E.G.

80. As a direct and proximate result of the aforementioned breaches by Defendant, YMCA, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer, severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such loses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G. demand judgment against Defendant, SARASOTA YOUNG MEN'S CHRISTIAN ASSOCIATION D/B/A SAFE CHILDREN COALITION, for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT V
NEGLIGENCE OF DEFENDANT, HARBOR

81. Plaintiffs D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

82. Pursuant to common law, statutory law, and the HARBOR's contract with YMCA, Defendant, the HARBOR owed Plaintiffs, D.M., C.M., and E.G. the following duties:

- a. To provide case management services to the Plaintiffs to ensure the safety of children in their care;
- b. To provide protective supervision services to the Plaintiffs to ensure the safety of children in their care;
- c. To use reasonable care to keep the Plaintiffs safe while in the HARBOR's care, and in providing oversight and supervision of the Plaintiffs to ensure that they were not abused and/or neglected;
- d. To use reasonable care assessing the risk of abuse to children living in the HOME;
- e. To perform home visits at least one (1) time per month to foster children living in the HOME and assess the risk of those children during such home visits to ensure the safety of children in their care;

- f. To perform Comprehensive Behavioral Health Assessments on foster children to evaluate, treat, and address the mental health needs of such children;
- g. To provide therapy and counseling to the Plaintiffs in a manner that ensures their safety, welfare and well-being;
- h. To use reasonable care in reviewing all materials, including materials in the Plaintiffs' case histories;
- i. To use reasonable care in identifying signs and symptoms indicating the Plaintiffs were being abused by the PARENTS
- j. To report any reasonably suspected neglect or abuse by the PARENTS to the Florida Abuse Hotline and/or to someone with authority to remove the Plaintiffs from the HOME;
- k. To remove the Plaintiffs from the HOME when the HARBOR knew or should have known the following:
 - i. That they were at risk of abuse and/or neglect;
 - ii. That the PARENTS were physically and emotionally abusing the Plaintiffs;
 - iii. That drug dealing transactions and crimes were occurring in the HOME;
 - iv. That the PARENTS participated and encouraged the Plaintiffs to participate in drug dealing transactions and crimes occurring in the HOME;

v. That the children living in the HOME were being threatened by the PARENTS and told not to disclose the abuse that was occurring in the HOME.

- l. To participate in quality assurance reviews performed by YMCA and/or DCF and comply with any corrective action plans implemented by YMCA and/or DCF based on the HARBOR's performance in providing foster care and related services, to ensure the safety of children in their care;

83. Defendant, the HARBOR, through its agents and/or employees, breached the aforesaid duties in paragraph 82, thereby completely failing to ensure the ongoing safety of the Plaintiffs, D.M., C.M., and E.G.

84. As a direct and proximate result of the aforementioned breaches by Defendant, the HARBOR, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer, severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such losses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G. demand judgment against Defendant, THE HARBOR BEHAVIORAL HEALTH CARE INSTITUTE, INC. N/K/A BAYCARE

BEHAVIORAL HEALTH, INC., for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT VI
NEGLIGENCE OF DEFENDANT, GOL

85. Plaintiffs, D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

86. Defendant, GOL owed Plaintiffs, D.M., C.M, and E.G. the following duties:

- a. To provide therapy and counseling to the Plaintiffs in a manner that ensures their safety, welfare and well-being;
- b. To use reasonable care in reviewing all materials, including materials in the Plaintiffs' case histories;
- c. To use reasonable care in identifying signs and symptoms indicating the Plaintiffs were being abused by the PARENTS
- d. To report any reasonably suspected neglect or abuse by the PARENTS to the Florida Abuse Hotline and/or to someone with authority to remove the Plaintiffs from the HOME.

87. Defendant, GOL, through its agents and/or employees, breached the aforesaid duties in paragraph 86, thereby completely failing to ensure the ongoing safety, welfare and well-being of the Plaintiffs, D.M., C.M., and E.G.

88. As a direct and proximate result of the aforementioned breaches by Defendant, GOL, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer,

severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such losses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G. demand judgment against Defendant, GIFT OF LIFE, INC. for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT VII
NEGLIGENCE OF DEFENDANT, YFA

89. Plaintiffs, D.M., C.M., and E.G. hereby reaver and reallege paragraphs 1 through 63 as if fully set forth herein.

90. Defendant YFA owed Plaintiffs, D.M., C.M., and E.G. the following duties:

- a. To provide therapy and counseling to the Plaintiffs in a manner that ensures their safety, welfare and well-being;
- b. To use reasonable care in reviewing all materials, including materials in the Plaintiffs' case histories;
- c. To use reasonable care in identifying signs and symptoms indicating the Plaintiffs were being abused by the PARENTS

- d. To report any reasonably suspected neglect or abuse by the PARENTS to the Florida Abuse Hotline and/or to someone with authority to remove the Plaintiffs from the HOME.

91. Defendant, YFA, through its agents and/or employees, breached the aforesaid duties in paragraph 90, thereby completely failing to ensure the ongoing safety, welfare and well-being of the Plaintiffs, D.M., C.M., and E.G.

92. As a direct and proximate result of the aforementioned breaches by Defendant, YFA, the Plaintiffs, D.M., C.M., and E.G. were repeatedly physically, sexually, mentally, and emotionally abused while living in the HOME, were exposed to drug dealing and crime that the PARENTS allowed to be conducted in the HOME, and suffered and will continue to suffer, severe bodily harm and resulting pain and suffering, disability, deterioration of their emotional condition, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, and exacerbation of preexisting condition. The losses are either permanent or continuing in nature and the Plaintiffs, D.M., C.M., and E.G. will suffer such losses in the future. Furthermore, the Plaintiffs, D.M., C.M., and E.G. will require services and treatment for the rest of their lives due to the severe psychological trauma and other harm they have endured.

WHEREFORE, Plaintiffs, D.M., C.M., and E.G. demand judgment against Defendant, YOUTH AND FAMILY ALTERNATIVES, INC. for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all issues so triable in this case.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 12th day of February 2014, a true and correct copy of the foregoing was served by Florida Courts E-Filing Portal upon the below service list.

FILSON & PENGE, P.A.

Richard A. Filson, Esquire
Florida Bar No. 435074
2727 South Tamiami Trail, Suite 2
Sarasota, Florida 34239
Telephone: (941) 952-0771
Facsimile: (941) 951-2142
filsonlawfirm@gmail.com
Counsel for Plaintiffs

COLODNY, FASS, TALENFELD

KARLINSKY, ABATE & WEBB, P.A.

One Financial Plaza, 23rd Floor
100 S.E. Third Avenue
Fort Lauderdale, Florida 33394
Telephone: (954) 492-4010
Facsimile: (954) 492-1144
Counsel for Plaintiffs

/s/Howard M. Talenfeld

Howard M. Talenfeld

Fla. Bar No.: 312398

Nicole R. Coniglio

Fla. Bar No.: 84939

htalenfeld@cftlaw.com

nconiglio@cftlaw.com

ytorres@cftlaw.com

SERVICE LIST

Jeffrey M. Goodis, Esq.

Jonathon W. Douglas, Esq.

Goodis Thompson & Miller, P.A.
PO Box 90
St. Petersburg, FL 33731
gtmservice@gtmlegal.com
molson@gtmlegal.com
Attorneys for DCF

D. Andrew DeBevoise, Esq.

DeBevoise & Poulton, P.A.
Lakewiew Office Park, Suite 1010
1035 S. Semoran Blvd.
Winter Park, FL 32792
debevoise@debevoisepoulton.com
cook@debevoisepoulton.com
distin@debevoisepoulton.com
Attorneys for Sheriff Nocco

Benjamin S. Jilek, Esq.

Bush Ross, P.A.
1801 North Highland Avenue
P.O. Box 3913
Tampa, FL 33601-3913
bjilek@bushross.com
mdibart@bushross.com
Attorneys for YMCA

F. Robert Radel, II, Esq.,

Andrew Labbe, Esq.,
Groelle & Salmon, P.A.
7650 W. Courtney Campbell Cwy
Suite 800
Tampa, Florida 33607
gstcourtdocs@gspalaw.com
rradel@gspalaw.com
preading@gspalaw.com
Attorneys for YFA